



**Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals**

Town Hall  
135 School Street  
Room 212  
Walpole, MA 02081  
508-660-7250

Requested Modifications:

1. Removed by applicant
2. Condition C.1.a: Deliver to the Board a check in a reasonable amount determined by the Board to be used for the Board to retain outside experts for technical and legal reviews and inspections required under these conditions.

**Requested Modification:** Deliver to the Board a check in the of Five Thousand and 00/100 Dollars (\$5,000.00) to be used for the Board to retain outside experts for technical reviews and inspections required by these conditions.

**Staff Comment:** According to a scope of work provided by BETA on March 11, 2021, a check for \$5,000 should be sufficient.

3. Condition C.1.c: Provide the Board with the recording information documenting the fact that the Order of Conditions for the Project issued by the Conservation Commission dated November 4, 2019 has been recorded in the Norfolk Registry of Deeds and that all appeals have been exhausted.

**Requested Modification:** Provide the Board with the recording information documenting the fact that the Superseding Order of Conditions for the Project issued by the Massachusetts Department of Environmental Protection (Mass DEP) dated February 20, 2020 has been recorded in the Norfolk Registry of Deeds and that all appeals have been exhausted.

**Staff Comment:** Engineering Department has no objection to this modification.

4. Condition C.2.h: The Applicant shall provide security in an amount and form acceptable to the Town for emergency sediment control and site stabilization.

**Requested Modification:** The Applicant shall provide security in an amount acceptable to the Town for emergency sediment control and site stabilization. Said security shall be provided consistent with the provisions of G.L. c. 41, sec. 81U, as provided for in Condition No. 1.1, provided herein.

**Staff Comment:** Engineering Department has no objection to this modification.

5. Condition C.2.i: The Applicant shall provide security in sum of one hundred twenty-five percent (125%) of the bona fide estimate of the cost of restorative landscaping. These funds will be used to restore the site should the project be abandoned, and no construction activity takes place for a year.

**Requested Modification:** The Applicant shall provide security in an amount acceptable to the Town for restorative landscaping to consist of loam and hydroseed of any disturbed areas. Said security shall be provided consistent with the provisions of G.L. c. 41, sec. 81U, as provided for in Condition No. I.I, provided herein.

**Staff Comment:** The Conservation Agent noted that there may more than just loam and hydro-seeding in the restorative plan on Plan SUP –C . If plants are required, then the security amount should include plantings and replanting die outs.

6. Condition D.1.e.: Submit as-built plan of stormwater basin and infiltration units ... set forth in the Conservation Commission's Order of Conditions for the Project issued on November 4, 2019, the peer reviewer's comments and recommendations submitted during the course of the public hearings and the final approved stormwater management plans dated September 25, 2019.

**Requested Modification:** Submit as-built plan of stormwater basin and infiltration units ... set forth in the MassDEP's Superseding Order of Conditions for the Project issued on February 20, 2020, the peer reviewer's comments and recommendations submitted during the course of the public hearings and the final approved stormwater management plans dated January 20, 2020.

**Staff Comment:** The Conservation Agent noted that the Conservation Commission included this special condition specifically so that the infiltration basin could be reviewed after final grade and before going on-line. DEP's conditions requiring an As-built plan give s no timeline other than prior to post-construction discharge. It has been our experience that infiltration basins need review earlier:

An **As-built plan** of the infiltration basin shall be provided to the Conservation Commission and reviewed by the Town Engineer no later than **30 days after completion of final grades**.

7. Condition H.9.a: The Applicant shall comply with all the terms and conditions of the Order of Conditions for the Project issued by the Conservation Commission on November 4, 2019. No work may proceed pursuant to this Comprehensive Permit until all appeal periods have been exhausted and the Order is recorded in the Norfolk Registry of Deeds.

- *Numbering error from Wall Street Development – see modification request for the above ZBA decision at #8 below.*

8. **Requested Modification:** The Applicant shall comply with all the terms and conditions of the Superseding Order of Conditions for the Project issued by MassDEP on February 20, 2020. No work may proceed pursuant to this Comprehensive Permit until all appeal periods have been exhausted and the Order is recorded in the Norfolk Registry of Deeds.

**Staff Comment:** See comment below.

9. Condition H.9.b: All terms and conditions of the Order of Conditions issued November 4, 2019 are expressly incorporated as conditions to this Comprehensive Permit and shall remain enforceable conditions under the Comprehensive Permit notwithstanding the result of any appeal. Should appeal of the Order of Conditions result in elimination or modification of

any condition of the Order of Conditions and the Applicant seeks to modify the Project based thereon, any such modification must be approved by the Board in accordance with 760 CMR 56.05(11).

**Requested Modification:** All terms and conditions of the Superseding Order of Conditions issued by MassDEP on February 20, 2020 and the plans referenced therein dated January 20, 2020 are expressly incorporated as conditions to this Comprehensive Permit and shall be the enforceable conditions under the Comprehensive Permit. In the event the Superseding Order of Conditions resulted in the elimination or modification of a condition and the Applicant seeks to modify the Project based thereon, any such modification must be approved by the Board in accordance with 760 CMR 56.05(11).

**Staff Comment:**

Landis Hershey, Conservation Agent, provided the following additional comments regarding this request:

The requested modifications are consistent with the DEP SOC (which is issued solely on the Wetland Protection Act and regulations) because he references it in most of the modifications however I recommend that the ZBA **not** remove the Conservation Commission's special conditions issued 11-4-2019 from the 40B decision other than the conditions the Applicant objected to in his appeal: special condition #24 (removing the 30% organic materials only) , #28, #46, #50, and# 52. The Order of Conditions apply to requirements of the Walpole Wetlands Protection Bylaw and Regulations for the protection of the town's wetland resource areas. I do not believe these conditions are in conflict with the DEP SOC.